

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
ZONING ITEMS PUBLIC HEARING**

**May 26, 2011**

- I. **CALL TO ORDER** – The meeting was called to order at 1:34 p.m. in the Council Chamber, 2<sup>nd</sup> Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Eunice Beatty (arrived at 1:42 p.m.); Patrick Brewer; Carla Blanton; Marie Copeland; Mike Cravens; Ed Holmes; Mike Owens; Derek Paulsen; Carolyn Richardson, Chair; Lynn Roche-Phillips; and William Wilson.

Planning staff members present: Chris King, Director; Bill Sallee; Jim Duncan; Janice Westlund; Traci Wade; Tom Martin; Sharon Buford; Stephanie Cunningham; and Pam Whitaker. Other staff members present were Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire and Emergency Services; and Tim Queary, Urban Forester.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 10-0 (Beatty absent) to approve the minutes of the April 28, 2011, meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **THUNDER PROPERTIES, LLC, ZONING MAP AMENDMENT & COONS PROPERTY, UNIT 11, LOT 2**

- a. MAR 2011-7: THUNDER PROPERTIES, LLC (5/26/11)\* - petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 2.55 net (3.05 gross) acres, for property located at 4268 Saron Drive (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 10) recommends Professional Service (PS) future land use for the subject property. The petitioner proposes to rezone the subject property, which is currently vacant, in order to broaden the allowable uses to permit restaurants and retail sales.

The Zoning Committee Recommended: **Postponement** at their meeting on March 3, 2011.

The Staff Recommends: **Disapproval**, for the following reasons:

1. The requested rezoning to a Neighborhood Business (B-1) zone cannot be found to be in agreement with the 2007 Comprehensive Plan, which recommends Professional Service (PS) future land use for the subject property. The Professional Office (P-1) zone was approved by the Urban County Council in 2001, and Professional Service uses were deemed to be appropriate during the 2001 Comprehensive Plan update to provide a land use buffer between the nearby retail to the north and the residential areas to the south.
  2. The proposed B-1 zone is not appropriate for the subject property for the following reasons:
    - a. The existing zoning serves as an appropriate transition in land use between the shopping center and the existing residential uses along Fiddler Creek Way and Chas Circle.
    - b. Neighborhood business uses are more intrusive to the neighborhood than office uses, especially in terms of hours of operation, noise and deliveries by trucks.
    - c. The current zoning allows for a good mixture of land uses in the area (high density residential, a shopping center, a day care center, and medium density residential uses all within the 400-foot notice area) without infringing on the residents of this established neighborhood.
    - d. Retail and restaurant establishments are already plentiful in the area, including the two Tates Creek Shopping Centers with eight restaurants, and two neighborhood business areas at Clearwater Way and Saron Drive, and Duval Street and Tates Creek Road. Therefore, there is not a compelling need for additional commercial uses in this area.
  3. There have been no significant unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2007 that would support B-1 zoning and more intense use than the current zoning allows for the subject property.
- b. ZDP 2011-21: COONS PROPERTY, UNIT 11, LOT 2 (5/26/11)\* - located at 4268 Saron Drive & 960 Chas Drive.  
**(Barrett Partners)**

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the proposed building conflicts with various existing easements, and the proposed drive-through lanes. Subsequent to the Subdivision Committee meeting, the staff received a revised version of the plan. With the new revisions, the staff is now recommending approval, subject to the following revised conditions.

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\* - Denotes date by which Commission must either approve or disapprove request.

The Staff Recommends: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1 and P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Correct note #1.
9. Resolve easement and pond relocation for buildings C, D and E at the time of the Final Development Plan.
10. Addition of street tree information from previous plan.
11. Correct storm water easement dimensions from 15' to 20' per plat.

Petitioner Representation: Tony Barrett, Barrett Partners, was present representing the petitioner. He requested a one-month postponement of this item.

Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 10-0 (Beatty absent) to postpone MAR 2011-7 and ZDP 2011-21 to the June 23, 2011, Planning Commission meeting.

Note: Ms. Beatty arrived at this time.

#### IV. **COMMISSION ITEMS**

- A. PFR 2011-4: LFUCG DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS** - a Public Facilities Review of the new Material Recovery Facility (Recycling Center), located at 689 Byrd Thurman Drive.

**SUMMARY FINDINGS:** The text of the 2007 Comprehensive Plan, as cited, clearly indicates the importance of and supports the proposed new recycling facility; and the Goals and Objectives that reference provision of essential public facilities and equitable distribution of those facilities for all residents of Fayette County, as well as other Goals and Objectives, will be enhanced by construction of the proposed buildings and use of the subject property for a larger, improved facility.

**STAFF RECOMMENDATION:** Approval, as requested; however, it is important that the floodplain (100-year FEMA flood hazard area) on the property that is associated with both the Town Branch and the Wolf Run Creeks be uninhibited with regard to their water-carrying capability. According to the site plan, it appears that the fence that surrounds the property encroaches into the floodplain; however, according to information provided by a member of the project team, the fence is outside the floodway where stream velocities are more pronounced. The design of the fence, as well as its location, will be subject to approval by the Division of Engineering in order that it not restrict the flow of water in the event flooding of the creek occurs.

Director Comments: Mr. King stated that the staff had presented this item at the Commission's May 12<sup>th</sup> meeting, but the Commission had lost a quorum and did not have the opportunity to take action on it. He noted that there were representatives from the Department of Environmental Quality and Public Works present, in case the Commission members had any questions about the proposed material recovery center. Mr. King reminded the Commission that they were not required to take action on a Public Facility Review, but the staff made a finding that the proposal was in agreement with the recommendations of the Comprehensive Plan.

Commission Questions: Ms. Roche-Phillips asked if the staff had received any feedback from the adjoining property owners about the proposed recycling facility. Mr. Sallee responded that it was the staff's understanding that there had been extensive conversations with the adjoining property owners early on in the site preparation work.

Action: A motion was made by Mr. Holmes, seconded by Ms. Roche-Phillips, and carried 11-0 to approve the findings of the staff with regard to PFR 2011-4.

- B. INITIATION OF ZONING ORDINANCE TEXT AMENDMENT** – The staff will request that the Commission initiate a Text Amendment to modify the reference to the applicable codes in the defined Courthouse Area. Following notification to registered neighborhood associations and detailed review by the Commission's Zoning Committee, the requisite public hearing could be heard later this summer.

Mr. Sallee stated that the staff was asking the Planning Commission to consider initiation of a text amendment to Article 27-8 of the Zoning Ordinance, a copy of which was distributed to Commission members. He said that the proposed change was to the last paragraph of the chapter of the Ordinance that sets the regulations and procedures for the Courthouse Area Design Overlay zone. The need for these changes was forwarded to the Division of Planning staff by the CHA Design Review Officer, after being reviewed by the Courthouse Area Design Review Board. Mr. Sallee stated that the proposed update would reference the proper codes where properties within the overlay zone were being reviewed. If the Commission chose to initiate this text amendment, the

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staff would notify all of the neighborhood associations as required, and be prepared for a public hearing sometime during the summer.

Action: A motion was made by Ms. Blanton, seconded by Mr. Owens, and carried 11-0 to initiate a Zoning Ordinance Text Amendment to Article 27-8, as proposed by staff.

- C. **2012 COMPREHENSIVE PLAN** – At this time, the Commission will consider whether to release a draft 2012 Comprehensive Plan Goals and Objectives for public review and comment.

Chair Comments: Chair Richardson stated that the 2012 Comprehensive Plan Goals and Objectives had been discussed at the Commission's most recent work session. Following that discussion, the Commission asked the staff to consolidate the Objectives into approximately three bullet points per Goal. Chair Richardson noted that each of the Commission members had received copies of the proposed Goals and Objectives, so that they could make a final decision about forwarding them on for the public comment period.

Mr. Duncan said that each of the Commission members should have received a copy of the draft Goals and Objectives marked "draft for public comment," which represents the revised draft, based on the Commission's comments at their work session. He noted that the staff had received an additional comment from Mr. Owens on the morning of this meeting, which had also been distributed to the Commission members.

Mr. Duncan reiterated that the staff had incorporated the Commission's comments from their last work session into the draft Goals and Objectives, which were the result of their work over the past five months. He said that the staff had attempted to condense the proposed Objectives under each Goal into three bullet points, without losing any of the pertinent information that the Commission asked the staff to retain. The staff also attempted to break up the sentences in the mission statement, again attempting to maintain the intent and spirit of the original.

Mr. Duncan stated that the staff was ready to launch a website devoted to the 2012 Comprehensive Plan. Once the Planning Commission decides to release the Goals and Objectives for public comment, that website will be launched, and the proposed text will be available for review on the website. The staff will then schedule a series of focus group meetings with several targeted groups from the community, in order to receive their input; they will also schedule at least two off-site public input meetings. Mr. Duncan noted that the staff could possibly schedule some of those meetings, and be able to report on that information, at the Commission's next work session, should the Commission choose to move the draft Goals and Objectives forward at this meeting.

Commission Comments: Mr. Brewer stated that he would like to compliment the staff for turning the Commission's disparate comments into a cogent document.

Mr. Owens stated that he had sent an email to Mr. Duncan, indicating that he thought it would be appropriate to add a statement at the end of the first proposed Objective under Goal 1 to read: "Pursue incentives and regulations that encourage creativity in housing development using adaptive reuse and design features whenever possible while preserving historic structures and street-scapes."

Ms. Richardson said that she agreed with Mr. Owens's proposed addition to the draft. She added that she would also like to thank the staff for their good work in incorporating the Commission's comments into the draft Goals and Objectives.

Mr. Cravens stated, with regard to Goal 2 under the "Protecting the Environment" theme, that he would like to suggest removing the reference to Leadership in Energy and Environmental Design (LEED) certification, since that is a branded program. He noted that there are other programs that are similar to LEED, and he believed that it would be more appropriate to make that Objective inclusive of other types of environmentally-oriented development. Mr. Duncan responded that the staff could make reference to the Green Building Council, which oversees such issues, or they could generically refer to the principles of LEED design instead. Mr. Cravens said that he believed that a generic reference would be more appropriate.

Mr. Duncan clarified that the staff would add the wording recommended by Mr. Owens, and make the LEED certification reference more generic.

Mr. Owens suggested that "appropriate" should be removed from his suggested changes from the first bullet point under Goal 1.

Mr. Paulsen suggested that, in the "Improving a Desirable Community" theme, the first bullet point of Goal 2 should be changed to read, "Encourage public safety and social sustainability by providing incentives for the Secured by Design certified developments, which are voluntary standards for the built and natural environments of neighborhoods that help deter crime."

Ms. Roche-Phillips stated that she would like for sustainability to be referenced in the "Protecting the Environment" theme. She said that she believed it could be incorporated into the bullet point that references LEED development. Mr. Duncan noted that that change could help the staff be more generic with regard to the reference to LEED.

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Mr. Owens stated, with regard to the fourth line of the mission statement, that it might be appropriate to change the proposed text to read, "...aids in the attraction and retention of companies that foster creative entrepreneurial professionals." Mr. Brewer noted that he could not support that suggestion, as he believed that "foster" could be misleading.

Ms. Roche-Phillips asked Mr. Duncan to explain the next steps for the draft Goals and Objectives. Mr. Duncan responded that, upon the Commission's consent, the staff would make the draft Goals and Objectives available for public review, first by posting it on the LFUCG website. The staff will follow that by sending out notice, within the next few days, to everyone on their contact list that the draft has been made available for comment. That website also includes a link to an email account that interested parties can use to make comments. Mr. Duncan said that the next step would involve scheduling at least two focus group sessions with a long list of individuals and agencies who have indicated an interest in the Comprehensive Plan process, after first providing them with a copy of the draft for their review prior to the meetings. Following the focus group sessions, the staff will schedule and conduct at least two off-site public input meetings, where the public will have the opportunity to review the Goals and Objectives, and comment on them. The staff will collect all of the comments received, and report back to the Commission the tenor of the input from the community, and any specific issues that are raised. Mr. Duncan noted that, at that time, the Commission could decide to modify the draft Goals and Objectives based on those comments. The next step would be to schedule a formal public hearing in the Council Chamber, which would be publicly advertised, where any comments made would be part of the public record. Following the public input period, the Commission's next step would be to decide whether to adopt the Goals and Objectives, and forward them on to the Urban County Council for their review. The staff would complete the proper procedures to send the draft to the Council, where it would most likely be put into the Council Planning and Zoning Committee to be reviewed through the early fall.

Ms. Roche-Phillips asked what the Planning Commission's role would be during the process Mr. Duncan described. Mr. Duncan responded that the next process would take between six and eight weeks, during which time the staff will have a number of other items to present to the Commission at their work sessions. He said that he did not expect that there would be much new work, other than receiving a status report on the public input process, at the June work session. However, once the Goals and Objectives are accepted and forwarded on to the Council, the staff will continue to work with the Commission on the next phases of the Comprehensive Plan. Should the Council decide to make major changes to the Goals and Objectives, there are still a number of things the staff would need to work on with the Planning Commission in order to prepare for the Land Use Element and other elements of the Comprehensive Plan. Mr. Duncan noted that staff will update the Planning Commission with new census data, population projections, and information from the underutilized land survey. They will also continue to work with the Council on their re-districting plan.

Ms. Richardson asked if the Commission needed to make a formal motion. Mr. Duncan answered that a formal motion would not be necessary; the Commission need only indicate that they have a consensus in order to present the draft Goals and Objectives for public comment. Ms. Richardson stated that, as there were no objections from the Commission, they had reached a consensus that the draft should be presented for public comment.

V. **STAFF ITEMS** – No such items were presented.

VI. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR JUNE, 2011**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	June 2, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	June 2, 2011
<b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>June 9, 2011</b>
Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	June 16, 2011
<b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>June 23, 2011</b>
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	June 29, 2011

X. **ADJOURNMENT** – There being no further business, Chair Richardson declared the meeting adjourned at 1:59 p.m.

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